No. 04-217

IN THE

Supreme Court of the United States

E. RANDEL T. OSBURN; LINDA DUBOSE; BRENDA LOWE CLEMONS; DOROTHY PERRY; and WENDALL MUHAMMED,

Petitioners,

v.

STATE OF GEORGIA; CATHY COX, Secretary of State, Georgia; SONNY PURDUE, Governor of Georgia; DEKALB COUNTY BOARD OF ELECTIONS AND REGISTRATION; GWINNETT COUNTY BOARD OF ELECTIONS AND REGISTRATION; LINDA LATIMORE, DeKalb County Elections Supervisor; LYNN LEDFORD, Gwinnett County Elections Supervisor; and GEORGIA DEMOCRATIC PARTY,

Respondents.

On Petition for a Writ of Certiorari to the Untied States Court of Appeals for the Eleventh Circuit

BRIEF OF RESPONDENTS GWINNETT COUNTY BOARD OF ELECTIONS AND REGISTRATION AND LYNN LEDFORD

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QUESTIONS PRESENTED

1. Did the Trial Court err in dismissing Petitioners' Complaint which alleged that the Democratic Primary for the Fourth Congressional District of Georgia violated Section 2 of the Voting Rights Act, 42 U.S.C. § 1973, pursuant to Federal Rule of Civil Procedure 12(b)(6)?

2. Are Petitioners' claims moot in light of Cynthia McKinney's victory in the Democratic Primary for the Fourth Congressional District conducted on July 20, 2004?

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STATEMENT OF THE CASE

This case began as an attempt by five disgruntled voters to reverse the will of the public as evidenced by the results of the democratic primary and general election during 2002. This case has evolved through an amended complaint to seek a complete overhaul of Georgia's Open Primary System. During the pendency of the lawsuit, however, many things have changed. Denise Majette has been sworn in as a Member of Congress and has almost completed her term of office. Ms. Majette has now decided not to seek reelection as a member of Congress and is seeking election to the United States Senate this fall.

Perhaps ironically, the Petitioners' candidate of choice, Cynthia McKinney, has won the Democratic Primary in 2004 and will be on the ballot during the November, 2004 election. It appears that if the Petitioners are successful in overturning the decisions of the District Court and Eleventh Circuit Court of Appeals, Cynthia McKinney's victory in the 2004 Democratic Primary would be nullified. This course of events would, in effect, throw out the Petitioners' candidate of choice and require a new election under a completely different procedure. The Gwinnett County Board of Registration and Elections and Lynn Ledford respectfully submit that the multitude of changed circumstances in this case render the relief requested by the Petitioners moot.

This action is brought by five registered voters in the Fourth Congressional District of Georgia who seek to unseat Denise Majette as a Member of Congress and require that new primaries and general elections be held to fill the seat that would be vacated by Denise Majette. Petitioners' Amended Complaint seeks a Declaratory Judgment that Georgia's present primary system is unconstitutional. Petitioners' Amended Complaint also seeks injunctive relief requiring that the Fourth Congressional District not hold additional primaries or elections until Georgia's election laws are overhauled.

Petitioners' Amended Complaint contains the following prayers:

A. Declare that the use of the Open Primary System in the Democratic Party Primary for the Fourth Congressional District violates Section 2 of the Voting Rights Act.

B. Declare the results of the August, 2002 Democratic Primary and the November, 2002 General Election for the Fourth Congressional District to be void.

C. Enjoin the use of the Open Primary System in the Democratic Party Primaries in the Fourth Congressional District of Georgia.

D. Require that the State of Georgia, Ms. Latimore, and Ms. Ledford register voters in the Fourth Congressional District by political party.

E. Direct that the State of Georgia devise a method to ensure that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in a Democratic Party Primary in the Fourth District.

F. Direct that the State of Georgia, Ms. Cox, Ms. Latimore, and Ms. Ledford immediately conduct a special Democratic Primary that ensures that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party Primary in the Fourth District and direct that the State of Georgia conduct thereafter a special general election for the Fourth Congressional District.

G. Award attorney's fees and costs, including expert witness expenses.

Although Petitioners seek to unseat a sitting Member of the United States House of Representatives, they did not take action to prevent Ms. Majette from being seated in Congress. The Democratic Primary occurred on August 20, 2002, and the General Election occurred on November 5, 2002. Instead of immediately filing suit and seeking to enjoin the Secretary of State's certification of the primary results, Petitioners waited until the primary results had been certified to file suit. Petitioners also failed to seek an injunction prohibiting the General Election until the issues they raise in their Complaint are resolved.

Petitioners' procrastination in bringing this action and requesting hearings on the equitable issues has resulted in a request that this Court unseat a sitting Member of Congress. The Petitioners' Amended Complaint also seeks to require the State of Georgia to devise a new elections procedure for the Fourth Congressional District only.

The Petitioners' case has been rendered moot by many events which have occurred during the pendency of this litigation. Ms. Majette has nearly completed her term of office and has decided to move on to seek a completely different office. A new Democratic Primary has been held and certified, and the Petitioners' candidate of choice, Cynthia McKinney, was victorious in the primary. No alleged Republican crossover vote occurred. The Petitioners apparently do not complain that the 2004 Democratic Primary was somehow flawed since their candidate won.

The Petitioners have not seen fit to attempt to amend their Complaint as the result of any of these circumstances. Respondents respectfully submit that Petitioners now choose not to amend their Complaint since to do so would invalidate Cynthia McKinney's victory in the 2004 Primary. These new facts highlight the propriety of an order denying Certiorari in this matter.

Petitioners' Complaint was filed on the basis that Cynthia McKinney was the preferred candidate of Democratic African-American voters in the Fourth District. The Complaint alleges that since Cynthia McKinney was not re-elected, the nomination of Democratic candidates in the Fourth Congressional District is not equally open to participation by African-Americans. Petitioners make this argument notwithstanding the fact that the Fourth Congressional District is made up of a majority of African-American voters. Petitioners' argument is also made notwithstanding the fact that another African-American woman defeated Cynthia McKinney for the Democratic Primary nomination and won the General Election. Petitioners continue to challenge Georgia's Open Primary System notwithstanding the fact that Cynthia McKinney, an African-American woman and Petitioners' candidate of choice, has now won a subsequent Democratic Primary in the Fourth Congressional District. Petitioners allege that because whites chose to participate in the Democratic Party Primary in the Fourth Congressional District, the five Petitioners' candidate of choice, Cynthia McKinney, did not achieve the Democratic Party nomination. Petitioners' allegations are made notwithstanding the fact that African-American women have been elected to represent the Fourth Congressional District in each General Election since 1996.

The District Court considered Petitioners' Amended Complaint and granted the Motions to

Dismiss filed by all Defendants other than the DeKalb County Board of Elections and Registration and Linda Latimore. The District Court found as follows:

"Put simply, none of the facts or allegations in the Complaint support a reasonable inference that any of the Defendants took any action whatsoever on account of any person's race or color or for the purpose of discriminating against any person on the basis of their race or color."

The Eleventh Circuit Court of Appeals affirmed the District Court's dismissal of the Petitioners' Complaint for failure to state a claim upon which relief may be granted. The Eleventh Circuit determined that Petitioners lacked standing to bring their First Amendment claim. The Eleventh Circuit also found that Petitioners' Fourteenth and Fifteenth Amendment claims failed since they did not allege that they were prevented from registering to vote or from voting. The Eleventh Circuit stated as follows:

"Plaintiffs do not allege that they were prevented from registering to vote or from voting at all. Instead they allege that they were out-voted in relation to selecting the candidate of their preference. The claim does not identify a violation of any fundamental right in relation to voting."

In denying Petitioners' allegations of a violation of Section 2 of the Voting Rights Act, the Eleventh Circuit stated as follows:

"The facts alleged by Plaintiffs, i.e., that "The Republican voters crossed-over and voted for Majette rather than McKinney, do not demonstrate a violation of Section 2 of the Voting Rights Act. The Plaintiffs have not alleged facts to support a claim that the minority group has been excluded from meaningful access to the political process due to the interaction of racial bias in the community with the challenged voting system."

In reviewing the Eleventh Circuit's affirmation of the District Court's dismissal of Petitioners' Complaint for failure to state a claim upon which relief may be granted, the appropriate standard of review is as follows:

In reviewing an Order granting a Motion to Dismiss, the Appellate Court must accept the factual allegations of the Complaint as true and may affirm the dismissal of the Complaint "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." Mesocap Industries Limited v. Torm Lines, 194 F.3d 1342 (11th Cir. 1999).

The Appellate Court reviews the District Court's legal conclusions de novo. G.S.W., Inc. v. Long County, 999 F.2d 1508 (11th Cir. 1993).

SUMMARY OF THE ARGUMENT

Respondents Lynn Ledford and the Gwinnett County Board of Registrations and Elections

respectfully submit that the allegations of Plaintiffs' Complaint do not rise to the level necessary for the grant of a Petition for Writ of Certiorari. The election which resulted in the alleged crossover voting of which Petitioners complain has been supplanted by a new Democratic Primary in which the Petitioners' candidate prevailed. The Petition for Writ of Certiorari does not allege any of the factors enumerated in Rule 10 which would render the Court's grant of the Petition appropriate. Respondents also submit that the facts which exist in the Fourth Congressional District have changed to such an extent that the Petitioners' original claims are barely recognizable.

Lynn Ledford and the Gwinnett County Board of Registrations and Elections respectfully submit that, as to them, Petitioners have failed to state a cause of action upon which relief may be granted. Petitioners' Brief states that the Amended Complaint set forth three causes of action. Each of these causes of action alleges that Georgia's Open Primary System violated Petitioners' rights and seeks to have the Open Primary System abolished. Neither Lynn Ledford nor the Gwinnett County Board of Registrations and Elections has the authority under Georgia statutes to effectuate the abolition of the Georgia Open Primary System. These Respondents are bound to follow the directives of the State of Georgia, as pronounced through the State Legislature and the State Executive Branch, with regard to the conduct of primaries. Accordingly, Respondents Ledford and

the Gwinnett County Board of Registrations and Elections are not proper parties to this action. The Trial Court did not err in granting the Motion to Dismiss filed by Lynn Ledford and the Gwinnett County Board of Registrations and Elections.

Lynn Ledford and the Gwinnett County Board of Registrations and Elections further assert that Petitioners lack standing to assert a violation of associational rights within the Democratic Party. Standing to assert such associational rights is within the exclusive province of the Georgia Democratic Party. The Georgia Democratic Party opposes such relief. Accordingly, the District Court did not err in granting the Appellees' Motion to Dismiss.

Lynn Ledford and the Gwinnett County Board of Registrations and Elections also respectfully submit that the United States District Court does not have authority under the Constitution of the United States to unseat a sitting Member of Congress. Article I, Section V of the Constitution of the United States leaves the expulsion of a Member of the House of Representatives to the House of Representatives. Accordingly, the House of Representatives, and not a Federal Court, has authority to unseat a sitting Member of Congress.

Lynn Ledford and the Gwinnett County Board of Registrations and Elections also assert that Petitioners' prayer that the Court void the results of the August, 2002 Democratic Primary and the November, 2002 General Election for the Fourth

Congressional District is moot. Petitioners had the ability to bring an action to enjoin the certification of the Democratic Primary results, and Petitioners further had the ability to request a hearing to enjoin the General Election in November, 2002. Petitioners sat on their rights and watched Denise Majette win the General Election and be seated as a Member of Congress. Ms. Majette has served as a Member of Congress representing the Fourth District since January, 2003. She is now nearing the end of her term of office and has chosen not to seek re-election as a Member of Congress from the Fourth Congressional District. A new Democratic Primary has been held, Cynthia McKinney has won the new Primary, and the results of the Primary have been certified. At this point, it is certain that Denise Majette will not sit as a Member of Congress during the new term, and the electoral history of the District renders it probable that Cynthia McKinney will be sworn in as a new Member of Congress from the Fourth Congressional District. Given this substantial change of facts, Respondents Lynn Ledford and the Gwinnett Board of Registrations and Elections respectfully submit that Petitioners' prayers are moot.

ARGUMENT AND CITATION OF AUTHORITY

I. THE GRANT OF CERTIORARI IS NOT APPROPRIATE IN THIS MATTER.

Rule 10 governing review on Certiorari provides in pertinent part as follows:

> "Review on a Writ of Certiorari is not a matter of right, but of judicial discretion. A Petition for a Writ of Certiorari will be granted only for compelling reasons."

Rule 10 sets out certain examples of cases when Certiorari would be appropriate. These cases include conflicts between the Federal Circuit Courts of Appeals, a decision by a state court of last resort on a federal question, or a decision on an important question of federal law which has not been, but should be, settled by this Court. Rule 10 provides that a Petition for Writ of Certiorari is rarely granted based on an alleged misapplication of a properly stated rule of law.

Given these parameters, Respondents respectfully submit that Certiorari is not appropriate. In this case, Petitioners allege racial discrimination in violation of Section 2 of

the Voting Rights Act notwithstanding the fact that African-American candidates have been elected continuously since 1996. In essence, the issue in this matter is whether relief is available to five African-American voters on the basis that they were out-voted in an election between two African-American candidates. The matter is simply not deserving of an expenditure of this Court's resources.

II. PETITIONERS SEEK RELIEF WHICH RESPONDENTS LEDFORD AND THE GWINNETT COUNTY BOARD OF REGISTRATIONS AND ELECTIONS DO NOT HAVE AUTHORITY TO PROVIDE

In considering Respondents' Motion to Dismiss Petitioners' Amended Complaint, the Trial Court labored under the standard that a Motion to Dismiss should be granted when it appears beyond doubt that the Petitioners can prove no set of facts in support of their claim that would entitle them to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). In applying this standard, the Trial Court was required to accept as true the facts pleaded in the Complaint and construe them in a light most favorable to the Petitioners. Harris v. Garner, 190 F.3d 1279, 1283 (11th Cir. 1999); Parisie v. Morris, 873 F. Supp. 1560, 1562 (N.D. Ga. 1995). See also Hishon v. King and Spaulding, 467 U.S. 69, 73 (1984). After applying this standard, the Trial Court

found that Petitioners' Amended Complaint should be dismissed on the basis that it fails to state a cause of action upon which relief may be granted. Federal Rule of Civil Procedure 12(b)(6).

Petitioners contend that Georgia's Open Primary System is unconstitutional. Lynn Ledford and the Gwinnett County Board of Registrations and Elections respectfully submit that the United States Constitution reserves to the various states the power to determine the time, place, and manner of election of Members of Congress. U. S. Constitution, Article I, Section IV, Clause I. Pursuant to Georgia law, voters do not identify a political party affiliation when they register to vote. Instead, a registered voter may choose to vote in the partisan primary of his choice. Official Code of Georgia Annotated § 21-2-224(d). Once a person has chosen to vote in a party primary, however, the voter may not vote in another party's primary during the same election cycle. Official Code of Georgia Annotated §§ 21-2-16, 21-2-402, 21-2-572. This Open Primary System has been in effect in Georgia since 1964. See 1964 Ga. Laws, pages 26, 64. See also Brooks v. Miller, 158 F.3d 1230, 1233-34 (11th Cir. 1998).

Lynn Ledford is the Gwinnett County Elections Supervisor who serves at the direction of the Gwinnett County Board of Registrations and Elections. The Gwinnett County Board of Registrations and Elections is created by Local Act of the General Assembly. The Board of

Registrations and Elections has a duty to follow State law with regard to election matters. 1988 Ga. Laws, pages 4296, et seq. Neither Lynn Ledford nor the Gwinnett County Board of Registrations and Elections has the power or authority to change the Georgia Open Primary System. Instead, the Governor of the State of Georgia and the State of Georgia, through the General Assembly, have complete control over the manner of conducting primaries in Georgia. See Official Code of Georgia Annotated Chapter 21-2.

If this Court were to order that Georgia's system of Open Primaries be revised, the order, to be effective, would be directed to Governor Perdue and the State of Georgia. While Lynn Ledford and the Gwinnett County Board of Registrations and Elections firmly contend that such an order is not warranted in this case, any State action in response to an order of this Court would bind Lynn Ledford and the Gwinnett County Board of Registrations and Elections. An order directed to the Gwinnett County Board of Registrations and Elections and Lynn Ledford is neither necessary nor would it be effective to change the Open Primary System. Accordingly, Lynn Ledford and the Gwinnett County Board of Registrations and Elections are not appropriate parties to this lawsuit. The Trial Court did not err in dismissing Petitioners' Complaint against them for failure to state a cause of action upon which relief may be granted.

III. PETITIONERS LACK STANDING TO ASSERT RIGHTS OF FREEDOM OF ASSOCIATION ON BEHALF OF THE GEORGIA DEMOCRATIC PARTY

Petitioners seek to invalidate Georgia's Open Primary System on the basis of a violation of alleged First Amendment rights of association with other Democrats in order to choose a Democratic nominee for the Fourth Congressional District. As the Georgia Democratic Party aptly stated in its renewed Motion to Dismiss Petitioners' Amended Complaint, the freedom of association and First Amendment right to choose the Democratic nominee belongs to the Democratic Party of Georgia, not to the individual Plaintiffs who have brought this suit. California Democratic Party v. Jones, 530 U.S. 567 (2000); Tashjian v. Republican Party of Connecticut, 479 U.S. 208 (1986); Democratic Party of the United States v. Wisconsin, 450 U.S. 107 (1981). By bringing this action to invalidate Georgia's Open Primary System, the Petitioners are asking this Court to curtail a political party's right of association and a political party's right to choose its nominee in the manner of its choice. The cases cited above provide authority that a state may not force a political party to expand or limit the persons it wishes to invite to participate in its primary elections.

Wooden v. Board of Regents of the University System, 247 F.3d 1262, 1273-74 (11th Cir. 2001), addressed the issue of standing as follows:

"Article III of the United States Constitution restricts the power of federal courts to adjudicating actual "cases" and "controversies." U. S. Constitution Article III, Section 2, Clause 1. This case-or-controversy doctrine fundamentally limits the power of federal courts in our system of government, and helps to identify those disputes which are appropriately resolved through the judicial process." [Georgia State Conference of NAACP Branches v. Cox, 183 F.3d 1259, 1262 (11th Cir. 1999)] (citing Allen v. Wright, 468 U.S. 737, 750, 104 S. Ct. 3315, 3324, 82 L. Ed. 2d 556 (1984), and Whitmore v. Arkansas, 495 U.S. 149, 155, 110 S. Ct. 1717, 1722, 109 L. Ed. 2d 135 (1990)).

Perhaps the most important of the Article III doctrines grounded in the case-or-controversy requirement is that of standing. See Allen, 468 U.S. at 750, 104 S. Ct. at 3324. "In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues." Warth v. Seldin, 422 U.S. 490, 498, 95 S. Ct. 2197, 2205, 45 L. Ed. 2d 343 (1975). A plaintiff seeking to invoke a federal court's jurisdiction must demonstrate three things to establish standing under Article III. First, he must show that he has suffered an "injury in-fact." Lujan v. Defenders of Wildlife, 504 U.S. 555, 560, 112 S. Ct. 2130, 2136, 119 L. Ed. 2d 351 (1992); Cox, 183 Fed. 3d at 1262. Specifically, the asserted injury must arise out of the invasion of a legally protected interest that is sufficiently concrete and

particularized rather than abstract and indefinite. See Lujan, 504 U.S. at 560, 112 S. Ct. at 2136; See also FEC v. Akins, 524 U.S. 11, 22-24, 118 S. Ct. 1777, 1785-86, 141 L. Ed. 2d 10 (1998). Second, the plaintiff must show a causal connection between the asserted injury-in-fact and the challenged action of the defendant. Lujan, 504 U.S. at 560, 112 S. Ct. at 2136; Allen, 468 U.S. at 751, 104 S. Ct. at 3324. That causal connection cannot be too attenuated. Third, the plaintiff must show that it is likely rather than speculative that "the injury will be redressed by a favorable decision." Lujan, 504 U.S. at 561, 112 S. Ct. at 2136. See also Miccosukee Tribe of Indians v. Florida State Athletic Commission, 226 F. 3d 1226, 1228 (11th Cir. 2000)(setting forth the three-part test for constitutional standing).

These three elements are the "irreducible minimum required by the Constitution" for a plaintiff to proceed in federal court. [Northeastern Fla. Chapter, Associated General Contractors of America v. Jacksonville, 508 U.S. 656, 113 S. Ct. 2297, 2302 (1993)(quoting Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464, 472, 102 S. Ct. 752, 758, 70 L. Ed. 2d 700 (1982))]. In determining whether a plaintiff has established standing, we keep in mind the Article III notion that federal courts may exercise power only in the last resort, and as a necessity, and when the dispute is one traditionally thought to be capable of resolution through the judicial process. Cox, 183 F. 3d at 1262-

63 (citing Allen, 468 U.S. at 752, 104 S. Ct. at 3325)."

While the Amended Complaint does not allege that Georgia's Open Primary System violates the Democratic Party of Georgia's rules or charter, the Petitioners' Amended Complaint also does not allege that the Democratic Party of Georgia is opposed to the Open Primary System as a method to select its nominees. Instead, the Democratic Party of Georgia asserted in its Motion to Dismiss that its bylaws encourage all segments of the population to participate in its primary. Given the Georgia Democratic Party's position, the Petitioners do not have standing to assert the claims made in their Amended Complaint. Accordingly, the Trial Court did not err in dismissing Petitioners' Amended Complaint for failure to state a cause of action.

IV. PETITIONERS SEEK RELIEF WHICH IS BEYOND THIS COURT'S JURISDICTION

Petitioners' Amended Complaint seeks to unseat a sitting Representative of the United States House of Representatives through an order of a Federal Court. Such an order is preempted by the United States Constitution which requires that the House of Representatives, and not a Federal Court, may expel a sitting Member of the House of Representatives. Article I, Section V of the Constitution of the United States provides in pertinent part as follows:

Each House shall be the judge of the elections, returns and qualifications of its own members . . .

Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds, expel a Member. (Emphasis supplied.)

Since the Primary and General Election of 2002 have been held and certified, and since Denise Majette has been seated as a Member of the United States House of Representatives for almost a full term now, Lynn Ledford and the Gwinnett County Board of Registrations and Elections respectfully submit that the Court does not have jurisdiction to grant the Petitioners the relief which they request. This assertion is highlighted by Cynthia McKinney's victory in the 2004 Democratic Primary for the Fourth Congressional District. Accordingly, the Trial Court did not err in dismissing Petitioners' Complaint for failure to state a cause of action upon which relief may be granted.

V. THE ISSUES RAISED IN PETITIONERS' COMPLAINT ARE MOOT

Petitioners have sat on their rights by failing to request a hearing on a Temporary Restraining Order before the Primary Election results were certified. Petitioners have also failed to request an Interlocutory Injunction prior to the General Election in this case. Now that Denise Majette has been elected in the General Election and is nearing

the end of her term of office, the Petitioners should not be permitted to attempt to unseat her as requested in the Amended Complaint. Instead, candidates for the Fourth Congressional District have been selected in new Primaries during 2004, and Cynthia McKinney will be on the ballot in November.

Given the Petitioners' delay in bringing the issues involved in this action to a hearing, the issues presented by the Petitioners' Amended Complaint are moot. See Brooks v. Georgia State Board of Elections, 59 F.3d 1114 (11th Cir. 1995); Board of Natural Resources v. Duke Energy Sandersville, 257 Ga. App. 815 (2002). Due to the Petitioners' delay in litigating the issues involved in this case, Lynn Ledford and the Gwinnett County Board of Registrations and Elections respectfully submit that Petitioners have an adequate remedy and complete redress by participating in the rapidly approaching elections for the next term of office of the Representative of the Fourth Congressional District. The Petitioners have not alleged facts which justify equitable relief in the form of an injunction. The Petitioners have not alleged an immediate threat of irreparable harm. Denise Majette, an African-American woman who is a member of the Democratic Party, presently represents the Fourth Congressional District, and Cynthia McKinney has been chosen as the Democratic candidate for the November, 2004 election.

CONCLUSION

Lynn Ledford and the Gwinnett County Board of Registrations and Elections respectfully submit that the Eleventh Circuit's affirmation of the Trial Court's dismissal of the Petitioners' Amended Complaint for failure to state a cause of action upon which relief may be granted was appropriate and did not constitute error. Lynn Ledford and the Gwinnett County Board of Registrations and Elections submit that they are not proper parties to this action, the Petitioners lack standing to assert associational rights on behalf of the Georgia Democratic Party, the Petitioners seek relief which the Court does not have jurisdiction to grant, and the issues raised by Petitioners' Amended Complaint have become moot during the pendency of this litigation. Accordingly, Lynn Ledford and the Gwinnett County Board of Registrations and Elections request that this Court affirm the Eleventh Circuit's ruling which affirmed the Trial Court's dismissal of Petitioners' Amended Complaint.

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